

**ASSEMBLY BILL**

**No. 1573**

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**Introduced by Committee on Elections and Redistricting (Fong (Chair), Adams (Vice Chair), Coto, Mendoza, Saldana, and Swanson)**

March 17, 2009

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An act to amend Sections 13314 and 15104 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1573, as introduced, Committee on Elections and Redistricting. Elections: voting.

Existing law authorizes an elector to seek a writ of mandate alleging that an error or omission has occurred, or is about to occur, in the placing of a name on, or in the printing of, a ballot, sample ballot, voter pamphlet, or other official matter, or that any neglect of duty has occurred, or is about to occur.

This bill would require that the Secretary of State be named as a real party in interest in writ proceedings concerning specific measures and candidates.

Under existing law, a voter's registration information, including the voter's signature, is to be kept confidential except for specified circumstances. Under existing law, specified persons may observe and challenge the manner in which vote by mail ballots are handled and processed by county elections officials. Existing law requires that these observers be permitted sufficiently close access to the process to observe and make challenges as to whether established procedures are being followed by persons handling vote by mail ballots.

This bill would require that vote by mail voter observers be permitted sufficiently close access to observe vote by mail ballot return envelopes and the signatures thereon.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13314 of the Elections Code is amended  
2 to read:

3 13314. (a) (1) ~~Any~~*An* elector may seek a writ of mandate  
4 alleging that an error or omission has occurred, or is about to occur,  
5 in the placing of ~~any~~ *a* name on, or in the printing of, a ballot,  
6 sample ballot, voter pamphlet, or other official matter, or that any  
7 neglect of duty has occurred, or is about to occur.

8 (2) A peremptory writ of mandate shall issue only upon proof  
9 of both of the following: ~~(A) that~~

10 (A) *That* the error, omission, or neglect is in violation of this  
11 code or the Constitution, ~~and (B) that~~.

12 (B) *That* issuance of the writ will not substantially interfere with  
13 the conduct of the election.

14 (3) The action or appeal shall have priority over all other civil  
15 matters.

16 (4) *The Secretary of State shall be named as a respondent or a*  
17 *real party in interest in any proceeding under this section*  
18 *concerning a measure or a candidate described in Section 15375,*  
19 *except for a candidate for judge of the superior court.*

20 (b) Venue for a proceeding under this section shall be  
21 exclusively in Sacramento County in any of the following cases:

22 (1) The Secretary of State is named as a real party in interest or  
23 as a respondent.

24 (2) A candidate for statewide elective office is named as a party.

25 (3) A statewide measure that is to be placed on the ballot is the  
26 subject of the proceeding.

27 SEC. 2. Section 15104 of the Elections Code is amended to  
28 read:

29 15104. (a) The processing of vote by mail ballot return  
30 envelopes, and the processing and counting of vote by mail ballots,  
31 shall be open to the public, both prior to and after the election.

1 (b) ~~Any~~A member of the county grand jury, and at least one  
2 member each of the Republican county central committee, the  
3 Democratic county central committee, and of any other party with  
4 a candidate on the ballot, and any other interested organization,  
5 shall be permitted to observe and challenge the manner in which  
6 the vote by mail ballots are handled, from the processing of vote  
7 by mail ballot return envelopes through the counting and  
8 disposition of the ballots.

9 (c) The elections official shall notify vote by mail voter  
10 observers and the public at least 48 hours in advance of the dates,  
11 times, and places where vote by mail ballots will be processed and  
12 counted.

13 (d) ~~Vote~~*Notwithstanding paragraph (2) of subdivision (b) of*  
14 *Section 2194, vote* by mail voter observers shall be allowed  
15 sufficiently close access to enable them to observe *the vote by mail*  
16 *ballot return envelopes and the signatures thereon* and challenge  
17 whether those individuals handling vote by mail ballots are  
18 following established procedures, including all of the following:

19 (1) Verifying signatures and addresses *on the vote by mail ballot*  
20 *return envelopes* by comparing them to voter registration  
21 information.

22 (2) Duplicating accurately ~~any~~ damaged or defective ballots.

23 (3) Securing vote by mail ballots to prevent ~~any~~ tampering with  
24 them before they are counted on election day.

25 (e) ~~No~~A vote by mail voter observer shall *not* interfere with the  
26 orderly processing of vote by mail ballot return envelopes or the  
27 processing and counting of vote by mail ballots, including the  
28 touching or handling of the ballots.